



TABOR and the 5.5% Statutory Revenue Limits

BACKGROUND

The Paint Brush Hills Metropolitan District is financed through a combination of property taxes and fees. The property taxes are generated through a mill levy imposed on real property within the District's boundaries by the District's Board of Directors and this revenue supports the District's General Fund. Fees are also set by the Board of Directors and are used to fund the expenses of the District's Water & Wastewater Enterprise Fund. Transfers from the General Fund that are within the limitations of the Taxpayer Bill of Rights (TABOR) may also be used to support the expenses of the Enterprise Fund. The General Fund supports the expenses of operating the District's parks, open spaces, and storm water drainage facilities as well as the overall administration of the District.

The District was formed in 1986 prior to the enactment of TABOR which was in 1992. TABOR imposes constitutional limits on a government's ability to collect, retain and spend tax revenues including any year-to-year increases in the amount of tax revenue allowed to be retained by a government even when the mill levy remains the same. In addition to the TABOR limit, there is a statutory limitation on the District that prevents the District from collecting and retaining property tax revenue for general fund purposes from one year to the next by more than 5.5% above the prior year. The result of both of these limitations is that they prevent the District from collecting and/or retaining all of the property taxes it could otherwise collect under its current mill levy by an amount that equals the stricter of either limitation.

Following the passage of TABOR, most Districts successfully sought voter approval to exempt them from both the TABOR and the 5.5% statutory limitations. The Paint Brush Hills Metropolitan District has never asked its voters for these exemptions.

FINANCIAL IMPACT

The District will not be able to retain approximately \$26,000, or 7%, of the property tax revenue it collects under its mill levy in 2016. This will require the District to refund what amounts to approximately \$35.00 per household or temporarily reduce its mill levy so that it collects approximately \$26,000 less revenue in 2017 in addition to the TABOR and statutory limitations that may be imposed on its 2017 property tax revenue.

The impact of the limitations became an issue for the District in 2016 following property value reductions over the past few years and then an increase in assessed property values in 2015. The property value reductions reduced the tax revenues of the previous years and reduced the base revenues from which the limitations are calculated.

SOLUTIONS

There are three options for the District's Board of Directors to consider as a result of the limitations to the property tax revenue it can retain. The three options are:

1. Reduce expenses;
2. Increase fees;

3. Ask voters to exempt the District from the TABOR and 5.5% revenue limitations. Each of these options is discussed here in more detail.

Reduce Expenses

The District has an obligation to operate its water and wastewater systems in a safe, reliable manner. Additionally, it needs to maintain its parks, open spaces, trails, and the storm water drainage system for the benefit of the residents and property owners of the District. The parks, open spaces, trails, and the storm water drainage system are funded solely by property taxes collected by the District with most of the costs for these services being fixed annually but which increase slightly each year due to cost of living adjustments in both fees and costs. As mentioned previously, the General Fund also subsidizes the water and wastewater operations through transfers to the Enterprise Fund. It is anticipated that there will not be enough property revenue to transfer to the Enterprise Fund.

The District's Board of Directors has moved to operate the District more efficiently. Since 2013, the Board has reduced the number of staff and many of its previously contracted services have been transitioned to District employees. This has resulted in substantial cost savings to the District. The District's Board is also currently addressing a 15.9% increase in electric costs over the past year, increased expenses due to regulatory changes, and needed improvements to the water delivery infrastructure.

The fact remains that reducing expenses is not an option without risking major reductions in the level of service to the District's residents and property owners.

Increase Fees

Because the District needs to continue to provide residents and property owners with a safe and reliable water and wastewater systems, it may need to increase fees to replace the subsidy from the General Fund to the Enterprise Fund. This may seem like a "zero-sum" proposition – reduce property taxes by \$35.00 per year and increase fees by \$35.00 per year. Although there is an estimated \$35.00 per household refund/reduction, a fee increase that is higher than the reduced revenue must be considered. Property taxes are collected through the El Paso County Treasurer and provide the District with a predictable revenue stream. Fees that are collected by the District Office provide a less predictable revenue stream with approximately 10% of the District's customers having past due balances from one month to the next. This results in the need for the District have contingent reserves for the District to meet its monthly expenses.

In addition, the mill levy paid through your property taxes may be deductible from your personal income taxes. The fees charged by the District are not deductible from personal income taxes. If you are in a 28% income tax bracket, you are paying \$1.28¹ for every dollar of monthly fees that you pay to the District. One dollar going to pay property taxes costs one dollar regardless of your tax bracket.

Table 1 on the next page illustrates the estimated cost and after-tax costs based on fees not being deductible from income on a Federal Income Tax Return and cost differences if the revenue

limitations are retained. It assumes that monthly fees are increased by 7%² based on percentage of reduced property tax revenue.

Table 1

	Monthly Fees Increased 7%	After-Tax Expense ³
Annualized Monthly Fees (Average \$100 per month)	\$1,284.00	\$1,643.52
Annualized Fees Increase	\$84.00	\$107.52
Estimated Property Tax Refund/Reduction	(\$35.00)	(\$35.00)
Net Annualized Increased Cost	\$49.00	\$72.52

Even a fee increase equivalent to only \$35.00 per year would result in a higher after-tax cost to District customers as illustrated in Table 2.

Table 2

	Monthly Fees Increased \$35.00	After-Tax Expense ⁴
Annualized Monthly Fees (Average \$100 per month)	\$1,235.00	\$1,580.80
Annualized Fees Increase	\$35.00	\$44.80
Estimated Property Tax Refund/Reduction	\$(35.00)	\$(35.00)
Net Annualized Increased Cost	\$ -	\$9.80

The result of this solution is an increased financial burden on the residents and property owners of the District.

Voter-Approved Exemptions to the Limitations

Paint Brush Hills Metropolitan District has not done what most other Districts have successfully done, and that is to reach out to its voters for exemptions to the revenue limitations. If the Board of Directors so chooses, an election would be held to ask voters to approve two ballot questions requesting exemptions from the TABOR and 5.5% statutory revenue limits. By exempting the District from the TABOR and statutory limitations, it would be able to retain all of the property taxes it collects under its current mill levy. It is important to note that this would not be a mill levy increase; it would simply allow the District retain all of the property tax under its current mill levy.

This solution provides the District's residents and property owners with the most cost-efficient method of financing the District while maintaining the highest level of service.

^{1,3,4} The information contained in this document is neither intended to be nor should it be considered to provide tax or legal advice. You should consult with your tax or legal advisor to determine your personal income tax situation.

² The fee increase shown here is for illustrative purposes only. The PBHMD Board of Directors has neither considered a fee increase nor should it be assumed that there will be a fee increase as a result of the revenue reductions resulting from the TABOR and the 5.5% statutory revenue limitations.